

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

JULIA ANN CALIPO,

Plaintiff,

v.

TOM WOLF, et al,

Defendants.

Case No. 1:18-CV-320

MEMORANDUM ORDER

This action was received by the Clerk of Court on October 19, 2018, and was referred to United States Magistrate Judge Richard A. Lanzillo, for report and recommendation in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Defendants filed a motion to dismiss. ECF No. 36. Plaintiff filed a brief in opposition. ECF No. 41.

On November 15, 2019, Magistrate Judge Lanzillo issued a Report and Recommendation recommending that the motion to dismiss be granted in part and denied in part and that Defendants Varner, Moore and Boylan be dismissed with prejudice. ECF No. 43. No Objections were filed.

After *de novo* review of the complaint and documents in the case, together with the report and recommendation, the following order is entered:

AND NOW, this 17th day of December, 2019;

IT IS ORDERED that the motion to dismiss [ECF No. 36] be granted in part and denied in part. Defendants' motion should be granted as to the following claims: slavery (Count 1); cruel and unusual punishment – food safety (Count 2); deliberate indifference- unsafe work conditions (Count 3); cruel and unusual punishment and due process – false misconducts (Count 5); access to courts (Count 9); and due process – grievance procedures (Count 10). Each of these claims is dismissed with prejudice. Defendants' motion is denied as to the failure to protect inmates (Count 4) and Wetzel, Shapiro, Wolf, and Oliver's contention that Plaintiff failed to allege their personal involvement in the deprivation of a constitutional right.

IT IS FURTHER ORDERED that Defendants Varner, Moore and Boylan are dismissed from this action with prejudice. The Clerk of Court is hereby directed to terminate these Defendants on the docket

AND, IT IS FURTHER ORDERED that the report and recommendation of Magistrate Judge Lanzillo, issued on November 15, 2019 [ECF No. 43] is adopted as the opinion of the court.

/s/ Susan Paradise Baxter

SUSAN PARADISE BAXTER
United States District Judge